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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,337	02/13/2001	Natarajan S. Ramesh	CSAC-0009	9820

28236 7590 05/06/2005

CRYOVAC, INC.  
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DUNCAN, SC 29334

EXAMINER
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CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/782,337

Applicant(s)

RAMESH ET AL

Examiner

Victor S. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005 and 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10,13-16,18,19,22-24 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10,13-16,18,19,22,23 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Introduction***

1. The Examiner has carefully considered Applicants' amendments and remarks filed on 4/6/2005 and 1/21/2005.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. Applicants' statement "Although the Office Action Summary shows that claims 29-31 are rejected as well, they are not included or discussed anywhere in the detailed action" (Remarks, page 1, footnote), the Examiner apologizes for inadvertently not repeating the prior reasoning of rejection. The grounds of rejection for claims 29-31 are now clearly included in this Office action.

### ***Rejections Based on Prior Art***

4. Claims 1-7, 9, 10, 13-16, 18, 19, 22, 23 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akao (US 4469741) in view of Foster (US 5968630), generally as set forth in section 4 of Office action dated 10/9/2004, together with the following additional reasoning and response to arguments.

First, for the purpose of clarification, the Examiner repeats the teachings of relied upon prior art Akao and Foster as follows: Akao is directed to laminated sheets for use as construction materials (column 1, lines 6-9), particularly floor materials having good cushioning characteristics (column 6, lines 48-49). The sheets comprise two thermoplastic resin film layers bonded via an adhesive layer to a central foam layer

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(Example 1 and Fig. 2), and films made of polyolefin resins, such as polyethylene, polypropylene, etc., are preferred (column 2, lines 51-54). The preferable film thickness is 15-100 microns (column 2, lines 65-67). Materials which can be used for the preparation of the foam layer include olefin-based resins, such as polyethylene (column 3, line 34 to column 4, line 1). The preferable foam layer thickness is about 5 to 50 mm (column 4, lines 13-14). Akao also teaches that materials, which can be used in the preparation of the adhesive layer, include thermoplastic resins such as low density polyethylene, polypropylene, etc. (column 3, lines 1-7). As to the limitation "at least one edge of the second film extends beyond a corresponding edge of the foam sheet", which is not taught by Akron, it is noted Foster's invention is directed to a laminate film/foam flooring composite comprising a polyethylene film layer on a polyethylene foam layer, and the laminate is usually in long strips, so when it is installed one edge of one strip overlies the extended portion of the polyethylene film of an adjacent strip (Abstract and Figs. 1 and 3).

With respect to Applicants argument "the Office Action has failed to set forth a prima facie case of obviousness ... the Office Action ... presents absolutely no evidence or argument that a motivation to combine the teachings of Akao with foster exists ..." (Remarks dated 1/21/2005, pages 7-8, bridging paragraph), the Examiner notes that the Office action merely repeats the teachings of references, so as to provide grounds for additional reasoning, and response toward Applicants' new arguments. The Examiner reminds Applicants that proper motivation has been clearly provided in the prior Office actions, as cited in the heading of each section. For the purpose of clarification, the

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Examiner repeats (see Office action dated 11/5/2002, page 5) the grounds of rejection as follows: Although Akao lacks a teaching of a film sheet wherein at least one edge of the film extends beyond a corresponding edge of the foam sheet, it is noted that Foster's invention is directed to a laminate film/foam flooring composition comprising a polyethylene film layer on a polyethylene foam layer wherein the film layer extends beyond one edge of the foam layer. Upon installation, one edge of one laminate strip of Foster overlies the extended edge of the film of another laminate strip in a manner that does not require tape to keep the strips from moving during installation. This results in more efficient installation, reduced labor costs, and more efficient vapor barrier properties. As such, In the absence of unexpected results, it would have been obvious to one of ordinary skill in the art of flooring to modify Akao's laminated sheet with at least one edge of the film extends beyond a corresponding edge of the foam sheet, as taught by Foster, motivated by the desire provide a flooring which can be installed efficiently, with reduced labor costs and also improved vapor barrier.

With respect to Applicant's argument "Akao describes a laminate composition for use as a wrapping material or construction material, and having strength and/or cushioning characteristics. Asao does not suggest that providing a water barrier is a desired characteristic of the composition, and also does not suggest modifying the laminate by providing an extended film edge ... one skilled in the art would have no reason to look to the Foster reference to provide the vapor barrier properties offered by an extended edge." (Remarks dated 1/21/2005, pages 8-9, bridging paragraph), the Examiner notes that Akao does expressly teach that the laminated sheet is suitable for

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use as a flooring material (see column 1, lines 20-21; column 6, lines 48-49). As such, since both Akao and Foster are from the same field of endeavor, i.e., flooring material, it would have been obvious to one of ordinary skill in the art of flooring to combine their teachings, Applicants' argument to the contrary notwithstanding.

For claim 29, Foster expressly teaches that blown tubing process is best for preparing low density polyethylene film, and the blowup (expansion) of the tube results in the film having orientation in both directions (column 7, lines 11-14).

For claim 30, Foster expressly teaches that a two sided adhesive tape can be affixed to the extended edge of the polyethylene film (column 7, lines 59-62).

For claim 31, Foster expressly teaches that preferably a removable (release) layer is located over the top surface of the adhesive tape (column 8, lines 1-4).

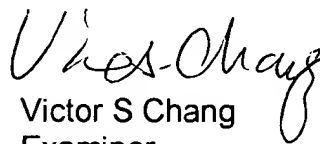
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor S Chang  
Examiner  
Art Unit 1771

5/4/2005